

HOUSE BILL NO. 455

INTRODUCED BY P. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT PRESCRIBING MERCURY EMISSION LIMITS; DEFINING "FOSSIL-FUEL OR BIOMASS POWER PLANT"; PROVIDING THE BOARD OF ENVIRONMENTAL REVIEW WITH RULEMAKING AUTHORITY; AMENDING SECTION 75-2-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-2-103, MCA, is amended to read:

"75-2-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advisory council" means the air pollution control advisory council provided for in 2-15-2106.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(3) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

(4) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.

(5) "Board" means the board of environmental review provided for in 2-15-3502.

(6) (a) "Commercial hazardous waste incinerator" means:

(i) an incinerator that burns hazardous waste; or

(ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

(9) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

(10) "Fossil-fuel or biomass power plant" means a generating facility that produces electric power from biomass, natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from those materials.

~~(10)~~(11) "Hazardous waste" means:

(a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

(b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

~~(11)~~(12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

(i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

(ii) space heaters that burn used oil;

(iii) wood-fired boilers; or

(iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

~~(12)~~(13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals. The term includes:

(a) cultures and stocks of infectious agents;

(b) human pathological wastes;

(c) waste human blood or products of human blood;

(d) sharps;

(e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed to infectious agents during research;

(f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

(g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions

1 from humans or animals.

2 ~~(13)~~(14) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or
3 private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the
4 federal government or an agency of the federal government, or any other legal entity and includes persons
5 resident in Canada.

6 ~~(14)~~(15) "Principal" means a principal of a corporation, including but not limited to a partner, associate,
7 officer, parent corporation, or subsidiary corporation.

8 ~~(15)~~(16) "Small business stationary source" means a stationary source that:

9 (a) is owned or operated by a person who employs 100 or fewer individuals;

10 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

11 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
12 7661, et seq.;

13 (d) emits less than 50 tons ~~per~~ a year of an air pollutant;

14 (e) emits less than a total of 75 tons ~~per~~ a year of all air pollutants combined; and

15 (f) is not excluded from this definition under 75-2-108(3).

16 ~~(16)~~(17) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
17 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial
18 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution
19 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
20 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;
21 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt
22 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or
23 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

24 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes
25 regulated under the mining and reclamation laws administered by the department of ~~environmental quality~~, or
26 slash and forest debris regulated under laws administered by the department of natural resources and
27 conservation."

28
29 **NEW SECTION. Section 2. Limitation on mercury emissions.** (1) An owner or operator of a
30 fossil-fuel or biomass power plant that has not yet filed an air quality permit application shall reduce the

1 uncontrolled mercury emissions from the generating unit by a minimum of 80%.

2 (2) An owner or operator of a fossil-fuel or biomass power plant that has filed an air quality permit
3 application shall, by January 1, 2010, reduce the uncontrolled mercury emissions from the generating unit by
4 a minimum of 80%.

5 (3) The board shall adopt rules to implement the provisions of this section.
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7 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
8 integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to [section 2].
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10 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.
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